



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6028-CR-DIMITROULEAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID G. TRACY,

Defendant.

RESCISSION OF PRE-SENTENCE AGREEMENT

The purpose of this NOTICE is to bring to your attention that the Pre-Sentence Agreement submitted is not the same Pre-Sentence Agreement I executed on July 24, 2000. There are changes to the agreement, which I view as substantial, and which were done without my knowledge or authorization.

Furthermore, I have since been informed that on June 26, 2000, the U.S. Supreme Court ruled that any "facts that increase the prescribed range of penalties to which a criminal defendant is exposed" must be submitted to a jury, and proved beyond a reasonable doubt. Appendi v. New Jersey, 503 U.S. ____, 2000 WL 807189 at *13 (U.S. June 26, 2000). Because I have never been advised of the potential impact the Appendi case might have on the government's ability to 'enhance' my sentence based on 'acquitted' and/or 'relevant' conduct, I feel it is not in my best interest to enter into this agreement.

Therefore, through this 'RESCISSION OF PRE-SENTENCE AGREEMENT', I hereby formally retract and dissolve our previously agreed upon Pre-Sentence Agreement.

SIGNED AND DATED THIS ____ DAY OF August, 2000.

A handwritten signature in dark ink, appearing to read "D. G. Tracy", written over a horizontal line.

DAVID G. TRACY, Defendant
c/o Federal Detention Center
Reg. NO. 55191-004
P.O. Box 019120
Miami, Florida 33101-9120

Handwritten initials or a signature in the bottom right corner of the page, possibly reading "B. J." or similar.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this _____ day of August, 2000, to A.U.S.A. Matthew Menchel, c/o U.S. Attorney, 99 NE 4th Street Miami, FL 33132 and to Steven E. Kreisberg, Attorney-at-Law, 3250 Mary Street, Coconut Grove, FL 33133.

David G. Tracy-Defendant
c/o Federal Detention Center
Reg. NO. 55191-004
Miami, FL 33101-9120